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GRADUATION ADDRESS

UNSW FACULTY OF LAW - GRADUATION CEREMONY

MONDAY 5 MARCH 2012
Chancellor, Dean of the Law School, Professor David Dixon, Senior Members of the University, 
Ladies and Gentlemen.

I am greatly honoured to have been invited to give the Address here today.

I wish to start by congratulating the law class of 2011 on your great success.

Today is a day for you and your loved ones to celebrate the tremendous accomplishment of 
your graduation from the Law School of the University of New South Wales.

Today, you have graduated from one of the finest and most demanding law schools in the 
country. I know to a certainty that nowhere in the country could you have received a better legal 
education.

This is not simple hyperbole. Your law school is one of the best as is your Dean, David Dixon.

What is important, however, is that you leave the UNSW Law School a better place because 
you have been here.

As I said, I was deeply honoured to have been asked to be the speaker here today. But I 
confess that I struggled about what to say on this auspicious occasion. I thought back to my 
own law school graduation over 40 years ago and realized that not only do I not remember what 
was said; I don't even remember who spoke.

I do recall the Chancellor described what it means to think like a lawyer - something along the 
following lines - "I wasn't there. I didn't do it. I was provoked. If I wasn't provoked I was crazy."
But I don't remember the precise language. So I don't have any illusions that you will remember 
much of what I say.

You are graduating into a world of national and international insecurity and unrest. The old 
certainties good and bad - are unravelling. What we thought we knew we no longer know. We 
can be confident only that in the coming decades we will encounter a world of rapid and almost 
unimaginable profound change.

Today is the hinge on which swings the door that you open to leave this calm courtyard and to 
face this daunting world.

Perhaps there may be lessons that I have learned that could help you in some small measure 
on your road ahead.

I have been a solicitor, company director and businessman for over 40 years with many failures 
and some successes. I started my own legal firm almost immediately after I graduated and 
have developed a legal practice which, though relatively small, is one which I am immensely 
proud of.

As you stand here tonight you are at the starting point of a wonderful journey. But it's a journey 
that only begins with your positive commitment and decision to embark upon it. We are a
nation of accomplishment and this ceremony is a great testament to that. But the unspoken requirement of success in a career is that you must have the positive mindset to commence it. There are countless contributions and achievements that never occurred all due to a failure to begin.

Now that you have accomplished something great and honourable and important here at UNSW it's time that you move on to what's next.

You must not let anything deter you from taking those first steps. You have an abundance of opportunity before you but don't spend so much time trying to choose the perfect opportunity that you miss the right opportunity. Recognise that there will be failures and acknowledge that there will be disasters. But you will learn from your mistakes and the mistakes of others for there is very little learning in success.

With the understanding that you will face tough times and amazing experiences you must also commit to the adventure. Just have faith in the skills and the knowledge you have been blessed with and go. Because regrets are born of paths never taken.

When I started my own firm, I was around 27 years old. Preachers of doom warned me what a precarious path I was embarking upon. The liabilities, the obligations, the potential negligence claims, the mortgage repayments would all wear me down. Yet I was determined that it was then or never and I did not wish to miss the opportunity.

I felt there was always an opportunity to make a difference and that's how I built up my practice.

I felt I had the advantage of not being encumbered by years of conventional thinking. Everyone said I was too young, too inexperienced and had insufficient capital to make it work. My time at University helped sharpen my sense of discovery and there is no better catalyst for success than curiosity.

I was advised on many occasions that a small firm had no chance to combat the strengths of a large firm. I never agreed with that argument. You can stand on the shoulders of the giants who came before and see a little further.

I felt the way my practice would be different was that I would offer a personalised service. From the very beginning I was available 24/7 to answer the needs of my clients. I made it my point to ring them all the time and make them feel that I was living their problem. It is this personalised service that made my practice client list different. Obviously there were larger firms who had star lawyers who adopted similar practices but, on the whole, I was able to develop solid relationships and friendships because I was and still am always available and this, to a certain extent, made me become almost indispensable.

Obviously this ability to be available will interfere with your private life and you will need to have an understanding family as I do. It is this ability to have an edge that will set you apart.

Interestingly, my career started around the same time as this Law School. I had the pleasure of attending the 40th Anniversary Dinner last year. As the speakers there described the modest beginnings of the Law School, I could not help but compare the modest beginnings of my practice. The University faced the seemingly impossible task of attracting students away from the well-established leader being Sydney University and just look at you now.
Your founding fathers embarked on the journey in the same way as I am encouraging you to embark on your journey. You, like them, will never look back.

If I may suggest, try never to be the smartest person in the room. And if you are, I suggest you invite smarter people or find a different room.

In professional circles it's called networking. In organisations, it's called team building. And in life, it's called family, friends and community. We are all gifted to each other and my growth as a lawyer has shown me again and again that the most rewarding experiences came from my relationships.

At the risk of being presumptuous, I thought that I would offer you three brief pieces of advice.

First, find happiness - indeed find joy - in the practice of law. For me, the hardest part of being a long established solicitor is hearing from younger solicitors that they are unhappy in their careers as lawyers. I am in touch with many solicitors. Many are enormously happy in their careers. Their experience reassures me that it truly is possible to find great pleasure in being a lawyer.

But some are terribly unhappy. National studies confirm that many lawyers are not happy. A University of Chicago study, entitled “Job Satisfaction in the United States”, found that being an attorney is the second most prestigious profession in the United States, but that lawyers are not in the top 12 professions in terms of satisfaction and happiness.

This would be a strange message for a law school graduation except for the fact that in every study a majority of lawyers do express happiness and satisfaction with their careers. I have absolutely no doubt that you can find joy in being a lawyer.

But it may not come in your first job or even your second. The reality of the hiring process is that of all the possible positions that lawyers can hold, only a narrow range hire right out of law school. Countless positions - being an in-house counsel, being a federal prosecutor, holding many positions in federal, state, or local governments, working in many small law firms, and being a law professor - require some experience.

If you are not happy with your job, change, and if needed change again. A study by the National Association of Law Placement Directors in the US found that over 33 percent of law school graduates will change jobs before their third year of practice. There is so much you can do with your law degree; there is no need to settle for less than a very high level of happiness and satisfaction in your professional career.

Pay attention to how you feel about work each day--don’t think you should like it because your job is prestigious or you’re paid well. Think about whether you do like it. I wish for each of you that you should find a job you love.

In the beginning, my job was neither prestigious nor well paid but I still loved it. I loved getting up every day to face the challenges of the day, even the ever present complaints of never satisfied clients. It was the excitement and energy that kept my motor running as they still do to this very day.
We all spend too much of our lives at work - and you have worked too hard to get here - to settle for anything less. The large chapter of your life which is about your career should be filled with happiness and joy.

I would point out, however, that this joy and work was in my case promoted and aided by my ability to balance my working hours with other endeavours. I became a professional company director. I have been and continue to be a company director in various public and private companies. This parallel career complemented my legal career as well as promoting it. My field of law is commercial law. My knowledge of commercial law assisted my performance as a company director. Conversely, my experience as a company director enabled me to advise other businessmen and companies on matters particularly of interest to them.

What I am saying, therefore, is get out of the office, expand and use your legal knowledge in fields complementary to your expertise.

Those dual roles will make you much happier in the performance of both.

Second, keep, protect, and follow your moral compass. I have spent a lot of time thinking about how lawyers get in trouble. The answers are remarkably the same over and again.

Sometimes, in a desire to please a client, lawyers cross lines that should not be crossed. Lawyers are remarkably good at rationalising and justifying their behaviour.

In your jobs - whether in firms, or public interest, or government - there will be pressure to please your clients. I fear that the economic crisis will make this worse as law firms want desperately to keep their clients.

But there are simply lines that we must not cross as lawyers. The temptations may be great. We want to help our clients who made mistakes; we want to win; we want the recognition and rewards that will come from those victories. But someone once said, in addressing the temptations that can get a lawyer in trouble, “When that big green door slams shut, remember which side you want to be on.” There are times when you just need to say no, no to your clients, no to your supervisors, and no even to the most powerful in our society. Remember, if you stand for nothing you will fall for anything.

Sometimes lawyers get in trouble, too, by telling themselves that they’ll do it just this once. Just this once, they’ll hide a document or borrow from client funds. The first time they anguish over it and do it. The second time is easier and then it is their pattern until they get caught.

The adversary system, too, provides a convenient excuse for bad behaviour. Far too many lawyers, and especially recent law school graduates, take this as an excuse to be unpleasant, even obnoxious, and to cross lines that should not be crossed.

They falsely tell themselves that they need to do this to prevail. After over 40 years as a lawyer, I can tell you that is nonsense and just a rationalisation for bad behaviour. Some of the very best and most successful lawyers I know are scrupulously ethical and bend over backwards to be collegial and pleasant to all they deal with. I need only point you in the direction of the Chancellor in this regard.

At the risk of being labelled an old man lamenting the good times, I must warn you that the profession is losing its collegial spirit. An undertaking given or taken from another solicitor has
always been sacrosanct to me. Yet more and more this absolute trust is disappearing and indeed I lament this priceless aspect of the profession. It is unfortunately becoming a "dog eat dog" profession with lawyers trying to outshine fellow lawyers and slipping away from high moral and ethical values. You must try and stop this. If a lawyer asks you to grant a concession necessary because of that lawyer's mistake grant it unless doing so would be disadvantageous to your client. Don't take advantage merely in an attempt to show off to your client.

In fact, I have seen over and over again that bad behaviour is counterproductive. If you have the reputation of being ethical and decent, you will get countless breaks. The reverse also is true. I have seen lawyers suffer greatly from judges who did not trust or respect them.

I think that the answer to all of this is to keep, protect, and follow your moral compass. For everything you do, ask how you will feel about it if it is on the front page of the newspaper. If you would be embarrassed, don't do it. For everything you do, ask how your favourite professor or Dean Dixon would assess your actions. If you would be embarrassed by their reactions, don't do it. For everything you do, ask how you would have felt about it before going to law school. That is the moral compass you came here with, follow it.

An important adjunct of the moral compass is the importance to assert one's independence as against clients.

As I have said, this passion to please clients may lead you into trouble. However, it may also lead you to lose your independence and self-respect. For me, throughout my career, I always strove to keep my independence. This is not to be confused with unwarranted conceit or self-assurance. By independence, I mean the ability to stand up for yourself in the face of a demanding client when you know you are right.

Let me give you an example:

I was acting for a client who was very lucrative and important for me. The transaction was one which involved many months of negotiations, litigation and finalisation. I believe I was doing a good job for the client. The client was very conceited and demanding. I had enough self-restraint to put up with his various demands even though a lot of them were often unreasonable.

As I mentioned before, he was a source of a lot of profitable work. One of his weaknesses was that he was always late for appointments. He came whenever it suited him. I never complained.

One day, I arranged a meeting with a senior barrister for 1.00 pm. It was an urgently arranged meeting. I advised the client that I would need to get a letter from another party so as to help the barrister for his advice and that I could be delayed. In fact I was about 20 minutes late. In the barrister's foyer, the client was furious and gave me a public dressing down for keeping him waiting.

I reminded him that I foreshadowed I would be late and that the reason why I was late was to collect something for his benefit. “In any event”, I said, “you’re always late and I never criticise you”. He then said, “Ah, yes but I am the one paying”. I was furious at this remark. I had done nothing wrong and did not deserve this dressing down in front of others.

His attitude was, in my opinion, unacceptable.
I said to him “I feel that you have treated me badly and I think it would be best for both of us if I no longer acted for you. I will come into the barrister's meeting with you now because you would be otherwise unduly prejudiced. However, after that, please take your files away”.

He was completely taken aback. Indeed, I was completely taken aback. I had just given away such a major client. In any event, we had the barrister's meeting. The guy was sugar sweet to me during the meeting. I did not react at all. After the meeting, I left with the remark “Please have someone collect your files”.

Was it self-confidence? Was it conceit? I don't know. I felt it was self-confidence because I believe I had a genuine basis for my stance and I was not going to let him walk over me notwithstanding the economic imbalance between him and me and the potential loss of a valuable client.

Well, let me tell you the story had a happy ending. That afternoon, a parcel containing a gold pen from Dunhill arrived with a card simply saying, 'I am sorry". By the way, he didn't spell “sorry” correctly but I got the message.

Third and finally, make a difference. Over and again, we hear people say that there is a problem and someone should do something about it. As lawyers, you are the ones who can do something.

Imagine at the end of your career there will be a book that describes what you have done with your time as a lawyer. What do you want it to say?

I hope that for each of you, yours will be filled with stories of how you used your law degree to make people’s lives better and maybe even our society a bit better. At the very least, I hope that yours will be filled with stories of how you fought to do this.

The problem is that the profession that you are joining provides incentives for ignoring this and gives excuses for when lawyers make society worse. You are responsible for what will be written in the book of your career and how it will affect others. Everyone may have a right to a lawyer, but no one has the right to your time and energy.

As lawyers, you will have the chance for tremendous power: to take away lives and to save them; to protect freedom and to compromise it; to protect our environment or aid in defiling it, to help companies do good things and to help them do bad things. UNSW law school has done such a good job of teaching you to think and to contemplate, but most of all today, I want to remind you to care - to care about the consequences and effects of what you do on people and on society.

No matter what field of law you go into, you can devote some of your time to helping individuals and causes who lack the resources to afford representation. No matter what field of law you go into, you can work to make people’s lives and your community better. I know how easy it is to make excuses for not doing so. But I also know that we make time for what matters to us. And the model of so many others shows that no matter what field of law you go into, you can find the time if you want to really make a difference.

I believe that your professional life will be greatly enhanced by partaking in various charitable organisations and indeed in being charitable and kind yourself to people who you come across.
Let me give you an example:

I was approached by two brothers who were businessmen in the community. Their business had been successful but regretfully they came across hard times and they faced harsh financial circumstances.

I suggested to them that their only way to avoid bankruptcy was to enter into a scheme with their creditors whereby the creditors would accept part payment in full satisfaction. The brothers agreed to my suggestion and I proceeded to canvass all the creditors. Indeed, a very satisfactory arrangement was ultimately entered into.

The brothers came to see me about paying me. What were my fees? It was here that I had to make a decision. I knew that they were basically penniless. Whatever I could reasonably charge them would be out of their reach. I felt for them. I made a considered business decision. I told them that we should suspend the question of payment of my fees until they were on their feet again. I told them I felt confident they would not let me down. Obviously, they were very appreciative and I had laid the basis of two very happy clients telling their many friends of their gratitude and my successful advice and service. The story does not end there.

Several weeks later, I got a call from someone purporting to be Sir Peter Abeles' secretary. She told me that Sir Peter would like to see me in his office. For me at the time, to receive a call from such a tycoon and leader of industry, was as if I received a call from God.

I went to see Sir Peter not knowing what he wanted. After the exchange of pleasantries, he told me that I should know that one of the two brothers whom I had helped was his best friend from school in Hungary and that he, Sir Peter, was very grateful and impressed with what I achieved for my clients and, more importantly, that I had not charged them.

Sir Peter went on to say that he would ensure that his company, TNT Worldwide Transport, would be sending me some work. I can tell you I was paid back a million times for what I did. Not only that but, more importantly, Sir Peter became one of my closest friends. My first public company directorship was with TNT and Sir Peter recommended many important clients to me.

What is the message of all this? Show an empathy towards your client's needs. That's what will make you different to many others. You will never regret it.

Finally, if this law school made you better - more knowledgeable, better at thinking, more aware of injustice, more caring - then you have accomplished all you could in the time that you have had here. Now is truly time for commencement, a time to celebrate the completion of this chapter in your life and the commencement of the next.

I would like to end by quoting the former US Secretary of State, General Colin Powell, when he addressed the students of Howard University in Washington DC. He said to those students and I say to you today:

Go forth from this place today inspired by those who went before you. Go forth with the love of your families and the blessings of your leaders.
Go forth to make this a better country and society. Prosper, raise strong families remembering that all you will leave behind is your good work and your children.

Go forth with my humble congratulations. And let your dreams be your only limitation. Now and forever.

Thank you and have a great life.

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